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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,556	11/12/2003	J. Hannah Baldwin	04001-P0003A	6909

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EXAMINER
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DOAN, ROBYN KIEU

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/706,556

Applicant(s)

BALDWIN, J. HANNAH

Examiner

Robyn Doan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/17/03.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Benson (3556115).

With regard to claims 14-17, Benson discloses a hair band (figs. 1, 3-5) comprising continuous twofold fabric (12, 13) having an interior surface (at 18) and an exterior surface forming an annular inner edge and an annular outer edge (fig. 2), an elastic band (38) continuously bound to said two fold fabric (fig. 3) and disposed within a first portion of the interior surface, the first portion being along the inner edge and stitching (26-29, 37) through both twofold fabric and said elastic; the hair band also having a stiffening material (31) being disposed within a second portion of the interior surface of the twofold fabric (fig. 4), said second portion along said outer edge of the hair band, the exterior surface of the twofold fabric being puckered (figs. 3-4) when elastic being contracted.

### ***Claim Rejections - 35 USC § 103***

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benson.

With regard to claims 1-13, 18-20, Benson as discussed above discloses a hair band comprising an elasticized portion (38) disposed within a fabric covering (col. 3, lines 9-14) with an upper edge, a hair retainer (10, fig. 5) gathered at and extending upwardly from the upper edge of the elasticized portion and terminating at a retaining lip. Benson does not disclose the elasticized portion being annular, the hair retainer being frustoconical in shape when the band is expanded, the lip being circular, an upper edge's diameter being smaller than a diameter of the lip and the material of the stiff material being mesh and fabric being terrycloth. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to construct the elasticized portion being annular, the hair retainer being frustoconical in shape when the band is expanded, the lip being circular, an upper edge's diameter being smaller than a diameter of the lip, since such modifications would have involved a mere change in the size and shape of the component. And It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the material of the stiff material being mesh and fabric being terrycloth, since it has been held to be within

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the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gregg, Phillips, Pollack et al, Skier and Varell are cited to show the state of the art with respect to a hair band device.

The drawings filed 11/12/05 have been approved by the Examiner.

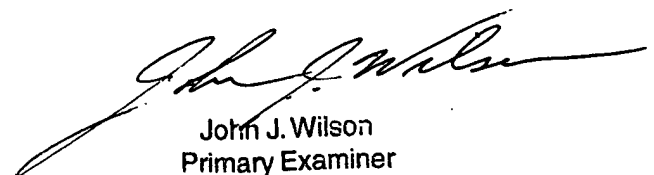
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (571) 272-4711. The examiner can normally be reached on Mon-Fri 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robyn Doan  
September 27, 2005



John J. Wilson  
Primary Examiner